

FILE COPY

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JAMES B. BROWER,
RESPONDENT.

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FINAL DECISION
AND ORDER

The State of Wisconsin, Real Estate Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision and Amendment to the Proposed Decision of the Hearing Examiner, makes the following:

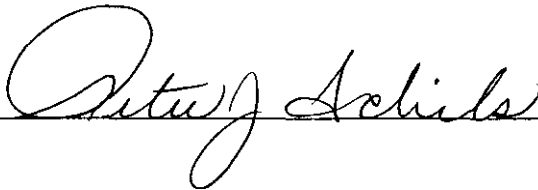
ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision, as amended by the Amendment to the Proposed Decision annexed hereto, filed by the Hearing Examiner, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Real Estate Board.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information".

Dated this 27TH day of SEPTEMBER, 1990.

BDLS-831



Peter J. Schiele

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

JAMES B. BROWER,

Respondent

PROPOSED DECISION

The parties to this proceeding for the purposes of Wis. Stats. sec. 227.53 are:

James B. Brower
1743 Michaels Street
Chippewa Falls, WI 54729

Henry E. Sanders
Attorney at Law
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

A hearing was conducted in the above-captioned matter on August 24, 1990, commencing at 1:30 p.m., in Room 133, at 1400 East Washington Avenue, Madison, Wisconsin. Appearing for the complainant was Attorney Henry E. Sanders. The respondent did not appear nor did anyone appear purporting to represent him. Based on the respondent's failure to file an Answer, as required by Wis. Adm. Code sec. RL 2.09, and his failure to appear at the time set for hearing, Mr. Sanders moved for default under Wis. Adm. Code sec. RL 2.14. That motion was granted conditioned upon presentation of a prima facie case.

Based on the entire record in this case, the hearing examiner recommends that the Real Estate Board adopt as its final decision in the matter, the following Findings of Fact, Conclusions of Law and Order

6. Conviction of the crimes of theft, issuing a worthless check and illegal sale of a controlled substance are substantially related to the practices of a real estate salesperson.

7. Respondent entered St. Joseph's Hospital for treatment of chemical dependency on October 29, 1989, and ultimately completed the program on January 13, 1989.

CONCLUSIONS OF LAW

1. The Real Estate Board has jurisdiction in this matter pursuant to Wis. Stats. sec. 452.14.

2. In having answered "no" to the question on the application form asking whether the respondent had ever been convicted of a felony or misdemeanor, respondent has made a material misstatement in his application for a license or in any information furnished to the department, in violation of Wis. Stats. sec. 452.14(3)(a).

3. Conviction of the crimes of theft, issuing a worthless check and illegal sale of a controlled substance are substantially related to the practices of a real estate salesperson, within the meaning of Wis. Stats. sec. 111.335(1)(c)1.

4. In having been convicted of the crimes of theft, issuing a worthless check and illegal sale of a controlled substance, respondent has violated laws and been convicted of crimes the circumstances of which substantially relate to the practice of real estate, in violation of Wis. Adm. Code sec. RL 24.17(1) and (2).

ORDER

NOW, THEREFORE, IT IS ORDERED that the license of James B. Brower to practice as a real estate salesperson in Wisconsin be, and hereby is, revoked, effective 10 days from the date of the board's order adopting the terms of this Proposed Decision. On or before the effective date of the board's order, respondent shall return any real estate licenses or certificates in his possession to the offices of the Real Estate Board.

OPINION

Certified copies of various court documents and the arrest and conviction record provided by the Wisconsin Department of Justice Crime Information Bureau satisfactorily establish the various convictions set forth in the Findings of Fact.

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

JAMES B. BROWER,

Respondent

AMENDMENT TO THE PROPOSED DECISION

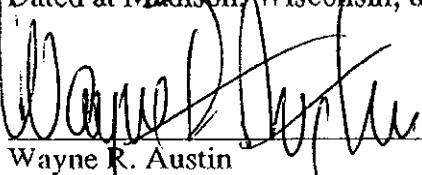
The examiner filed his Proposed Decision in the above-captioned matter on September 5, 1990. It thereafter came to the examiner's attention that there is a scrivener's error in paragraph #4 of the Proposed Decision. A reference to a letter by respondent received by the department on January 25, 1990, was incorrectly indicated as having been received on January 25, 1989. Accordingly, PLEASE TAKE NOTICE that paragraph #4 of the examiner's Proposed Decision in this matter should read as follows:

4. Respondent's application was incomplete in that he had failed to indicate his business or occupation in the preceding two years. Responding to the department's inquiry in that regard, respondent sent an undated letter received on or about January 25, 1990, enclosing copies of an Amended Information and Judgment of Conviction in the matter of the State of Wisconsin v. James B. Brower, Case #89CF5, by which, on October 13, 1989, Brower was found guilty on his plea of no contest by the Circuit Court for Dunn County of the crime of delivering tetrahydrocannabinols (THC) in violation of Wis. Stats. sec. 161.41(1)(h)1, a felony. Respondent's letter states in part as follows:

Enclosed is some information that was mistakenly left out of my realtor salesperson application. This was first brought to my attention [sic] by the party that mailed it out for me.

I realize this is a very serious matter. It was a honest mistake and I am very sorry.

Dated at Madison, Wisconsin, this 17th day of September, 1990.


Wayne R. Austin
Hearing Examiner

WRA.BDLS:789

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each and the identification
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Real Estate Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Real Estate Board.

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Real Estate Board.

The date of mailing of this decision is October 2, 1990.